



Suzanne Henderson

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**OIL AND GAS LEASE**

(No Surface Use; Paid Up Lease)

This Oil and Gas Lease (this "Lease") is made on **October 1st, 2008** between **Jefferey R. Armstrong and Rachel L. Armstrong, husband and wife**, (hereafter called "Lessor"), whose address is **712 Bridget Way, Hurst, Texas 76054**, and **XTO Energy Inc.** (hereafter called "Lessee"), whose address is **810 Houston Street, Fort Worth, TX. 76102**.

**1. Grant.** In consideration of Ten Dollars and other consideration in hand paid, Lessor grants and leases exclusively unto Lessee the land described in attached Exhibit A (the "Land") in Tarrant County, Texas, for the sole purpose of exploring, drilling, and producing oil and gas, and to produce, save and transport oil and gas and other products manufactured from oil and gas produced from the Land, but only as to depths below 1,000 feet beneath the surface of the ground. This lease also covers and includes any interest which Lessor may own in any street, alley, highway, railroad, canal, river, body of water, contiguous or adjacent to the Land, whether the same be in said survey or surveys or in adjacent surveys, although not included within the boundaries of the land particularly described above.

**2. Primary Term.** This Lease is for a term of three (3) years from this date (called "Primary Term") and so long thereafter as oil or gas is produced from the Land, or lands pooled therewith, in paying quantities.

**3. Minerals Covered.** This Lease covers only oil and gas. The term "oil and gas" means oil, gas, and other liquid and gaseous hydrocarbons and their constituent elements produced through a well bore. All other substances and minerals (~~including water~~) are excepted from this Lease and reserved to Lessor.

**4. Royalty.**

(a) As royalties, Lessee agrees:

(1) To pay to Lessor, on oil and other liquid hydrocarbons produced and saved from the Land, 25% (the "Royalty Fraction") of the market value at the point of sale of such oil, or at Lessor's option, which may be exercised from time to time, the Royalty Fraction of all oil and other liquid hydrocarbons produced and saved from the Land, which shall be delivered free of expense to Lessor at the wells or to the credit of Lessor at the pipeline to which the wells may be connected.

(2) To pay to Lessor:

(i) On gas produced from the Land and sold by Lessee or used off the Land and to which the following subparagraphs (ii) and (iii) do not apply, the Royalty Fraction of the market value at the point of sale, use or other disposition, less the deductions authorized in subparagraph 4(c) below.

(ii) On gas produced from the Land that is processed in a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the higher of the Royalty Fraction of the market value of the gas at the inlet to the processing plant, or the Royalty Fraction of the market value of all processed liquids saved from the gas at the plant plus the Royalty Fraction of the market value of all residue gas at the point of sale, use, or other disposition, less the deductions authorized in subparagraph 4(c) below.

(iii) On gas produced from the Land that is processed in facilities other than a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the Royalty Fraction of the market value at the plant of all processed liquids credited to the account of Lessee and

attributable to the gas plus the Royalty Fraction of the market value of all residue gas at the point of sale, use, or other disposition, less the deductions authorized in subparagraph 4(c) below.

(b) The market value of gas will be determined at the specified location by reference to the gross heating value (measured in British thermal units) and quality of the gas. The market value used in the calculation of oil and gas royalty will never be less than the proceeds received by Lessee in connection with the sale, use, or other disposition of the oil or gas produced or sold. For purposes of this paragraph, if Lessee receives from a purchaser of oil or gas any reimbursement for all or any part of severance or production taxes, or if Lessee realizes proceeds of production after deduction for any expense of production, gathering, dehydration, separation, compression, transportation, treatment, processing, storage, marketing, or remediation, then the reimbursement or the deductions will be added to the proceeds received by Lessee except as set forth in subparagraph 4(c) below. Royalty will be payable on oil and gas produced from the Land and consumed by Lessee on the Land for compression, dehydration, fuel, or other use.

(c) Except as permitted herein, it is agreed between the Lessor and Lessee, that, notwithstanding any language herein to the contrary, all oil, gas or other proceeds accruing to the Lessor under this Lease or by state law shall be without deduction for the cost of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting, and marketing the oil, gas and other products produced hereunder to transform the product into marketable form. Further, in no event shall Lessor receive a price that is less than the price received by Lessee from an arms-length contract with a purchaser that is not an affiliate of Lessee. It is the specific intent of the parties to this Lease that this provision is to be treated as enforceable as written and is not to be deemed "surplusage" under the principals set forth in *Heritage Resources v. Nations Bank*, 939 S.W.2d 118 (Tex. 1997). Notwithstanding the foregoing, Lessor's royalty will bear its share of all severance and productions taxes and if a third party, that is not an affiliate of Lessee, compresses, transports, processes, or treats gas produced from the Land to receive a better price, Lessor's royalty will bear its proportionate share of the additional costs and expenses associated therewith, even if such third party charges are passed through an affiliate of Lessee.

(d) If gas produced from the Land or lands pooled herewith is sold by Lessee pursuant to an arms-length contract with a purchaser that is not an affiliate of Lessee, and for a term no longer than that which is usual and customary in the industry at the time the contract is made, then the market value of the gas sold pursuant to the contract shall be the total proceeds received by Lessee in the sale, subject to the provisions of paragraph 4(b) above.

(e) Lessor shall be paid the Royalty Fraction of all payments and other benefits made under any oil or gas sales contract or other arrangement, including take-or-pay payments and payments received in settlement of disputes; provided that if Lessor receives a take-or-pay payment or similar payment for gas that has not been produced, and if the gas is subsequently produced, Lessor will receive only its Royalty Fraction of the market value of the volume of gas for which payment has not already been made.

(f) Unless there is a reasonable title dispute, Lessee must disburse or cause to be disbursed to Lessor its royalty on production from a particular well not later than 120 days after the end of the month of first sales of production. Thereafter, Lessee must disburse or cause to be disbursed to Lessor its royalty on production by the last day of the second month after the month in which production is sold. If not paid when due, Lessor's royalty will bear interest at Eighteen Percent (18%) annual from due date until paid, which amount Lessee agrees to pay. Acceptance by Lessor of royalties that are past due will not act as a waiver or estoppel of its right to receive interest due thereon unless Lessor expressly so provides in writing signed by Lessor. The royalty payment obligations under this Lease shall not be affected by any division order or the provisions of the Section 91.402 of the Texas Natural Resources Code or any similar statute. Notwithstanding anything to the contrary contained in this Lease, should a royalty payment not be made for a period of one year from the anniversary date of the due date as provided for in this Lease, unless there is then in effect another applicable preservation provision of this Lease, Lessor may, at Lessor's option, elect to terminate the applicable portion of this Lease by sending written notice to Lessee by certified mail. Lessee shall then have ninety (90) days from the date of service of such written notice in which to avoid termination of the applicable portion this Lease by making or causing to be made the proper royalty payment. If such royalty payment is not made on or before the expiration of said 90 day period, or written approval is not obtained

intends to frac shall be deemed a well capable of producing in paying quantities and the date such well is shut-in shall be when the drilling operations are completed.

Notwithstanding anything to the contrary contained in this Lease, should a shut-in royalty payment not be properly made in a timely manner as provided for in this Lease, unless there is then in effect another applicable preservation provision of this Lease, Lessor may, at Lessor's option, elect to terminate the applicable portion of this Lease by sending written notice to Lessee by certified mail. Lessee shall then have thirty (30) days from the date of service of such written notice in which to avoid termination of the applicable portion this Lease by making or causing to be made the proper shut-in royalty payment. If such shut-in royalty payment is not made on or before the expiration of said 30 day period, or written approval is not obtained from Lessor to defer such payment, Lessor may elect to terminate the applicable portion of this Lease by filing a Notice of Termination with the County Clerk in the county where the Land is located. The effective date of said termination shall be the date said Notice of Termination is filed with the said County Clerk.

**6. Continuous Operations.** If, at the expiration of the Primary Term, oil or gas is not being produced from the Land or lands pooled herewith, but Lessee is then engaged operations (as defined below) on the Land or lands pooled herewith, or shall have completed a dry hole thereon within 60 days prior to the end of the Primary Term, the Lease will not terminate but will remain in effect for so long thereafter as operations on said well or any additional well are carried out with due diligence with no cessation of more than ninety (90) days, and if the operations result in the production of oil or gas, so long thereafter as oil or gas is produced from the Land or from land pooled therewith. For the purposes of this Lease, the term "operations" means operations for any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back, or repairing of a well in search for or in the endeavor to obtain production of oil or gas. Further, the term "production" in this Lease means production in paying quantities. If, after the expiration of the Primary Term and after oil and gas is produced from the Land, or from land pooled therewith, the production thereof should cease from any cause, this Lease shall not terminate if Lessee commences operations within 60 days after the cessation of such production, but shall remain in force and effect so long as such operations are prosecuted with no cessation of more than 60 consecutive days, and if they result in the production of oil or gas, so long thereafter as oil or gas is produced from the Land, or from land pooled therewith.

**7. Pooling.** Lessee shall have the right but not the obligation to pool all or any part of the Land or interest therein with any other lands or interests, as to any or all depths or zones, and as to any or all substances covered by this Lease, either before or after the commencement of production or operations, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the Land, whether or not similar pooling authority exists with respect to such other lands or interests. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 40 acres plus a maximum acreage tolerance of 10%, and for a gas well or a horizontal completion shall not exceed 640 acres plus a maximum acreage tolerance of 10%; provided that a larger unit may be formed for an oil well or gas well or horizontal completion to conform to any well spacing or density pattern that may be prescribed or permitted by any governmental authority having jurisdiction to do so. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate governmental authority, or, if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment; and the term "horizontal completion" means an oil or gas well in which the horizontal component of the gross completion interval in the reservoir exceeds the vertical component thereof. In exercising its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling. Production or operations anywhere on a unit which includes all or any part of the Land shall be treated as if it were production or operations on the Land, except that the production on which Lessor's royalty is calculated shall be that proportion of the total unit production which the total net acreage covered by this Lease and included in the unit bears to the total surface acreage in the unit. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by

materials, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances (as the term "Hazardous Substance" is defined in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. Sections 9601, et seq.) or toxic substances under any federal, state or local law or regulation ("Hazardous Materials"), except ordinary products commonly used in connection with oil and gas exploration and development operations and stored in the usual manner and quantities. **LESSEE SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND LESSOR, ITS AGENTS, EMPLOYEES, TENANTS, GUESTS, INVITEES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY CLAIMS, DAMAGES, JUDGMENTS, PENALTIES, LIABILITIES, AND COSTS (INCLUDING REASONABLE ATTORNEYS FEES AND COURT COSTS) CAUSED BY (1) LESSEE'S VIOLATION OF THE FOREGOING PROHIBITION OR (2) LESSEE'S RELEASE OR DISPOSAL OF ANY HAZARDOUS MATERIALS ON, UNDER OR ABOUT SAID LAND OR LANDS POOLED THEREWITH DURING LESSEE'S OCCUPANCY OR CONTROL OF SAME. LESSEE SHALL CLEAN UP, REMOVE, REMEDY, AND REPAIR ANY SOIL OR GROUND WATER CONTAMINATION AND DAMAGE CAUSED BY LESSEE'S RELEASE OF ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT SAID LAND OR LANDS POOLED THEREWITH DURING LESSEE'S OCCUPANCY OF SAME IN CONFORMANCE WITH THE REQUIREMENTS OF APPLICABLE LAW. THIS INDEMNIFICATION AND ASSUMPTION SHALL APPLY, BUT IS NOT LIMITED TO, LIABILITY FOR RESPONSE ACTIONS UNDERTAKEN PURSUANT TO CERCLA OR ANY OTHER ENVIRONMENTAL LAW OR REGULATION. LESSEE SHALL IMMEDIATELY GIVE LESSOR WRITTEN NOTICE OF ANY BREACH OR SUSPECTED BREACH OF THIS PARAGRAPH, UPON LEARNING OF THE PRESENCE OF ANY HAZARDOUS MATERIALS, OR UPON RECEIVING A NOTICE PERTAINING TO HAZARDOUS MATERIALS WHICH AFFECT SAID LAND OR LANDS POOLED THEREWITH. THE OBLIGATIONS OF LESSEE HEREUNDER SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION FOR ANY REASON, OF THIS LEASE.**

**28. Dwellings.** No structure of any kind shall be used as a dwelling house for any persons associated with the operations on lands pooled with the Land.

**29. Groundwater Protection.** Any oil or gas wells drilled by Lessee under this Lease shall be drilled in compliance with the surface casing requirements imposed by the State of Texas for groundwater protection and Lessee shall install such surface casing in the required manner in order to insure the protection of all fresh water bearing formations in and under the Land.

**30. Visual Appearance.** Lessee shall maintain any drillsites within 500 feet of the Land in a clean and orderly fashion.

**31. Mud Pits.** Lessee shall locate no mud pits on lands located within 500 feet of the Land.

**32. Headings.** Paragraph headings are used in this Lease for convenience only and are not to be considered in the interpretation or construction of this Lease.

**33. Binding Effect.** This Lease is binding upon and for the benefit of Lessor, Lessee, and their respective heirs, personal representatives, successors, and assigns.

**34. Jurisdiction and Venue.** Jurisdiction and venue for any legal dispute between Lessor and Lessee related in any way to this lease shall be in the court(s) of competent jurisdiction located in Tarrant County, Texas.

**35. Option to Extend.** Lessee is hereby given the option, to be exercised prior to the date on which this lease or any portion thereof would expire in accordance with its terms and provisions of extending this lease for a period of two (2) years as to all or any portion of the acreage then held hereunder which would expire unless so extended. The only action required by Lessee to exercise such option being the payment to Lessor (or for Lessor's credit at the depository bank named herein) and/or such parties entitled under any change of ownership according to Lessee's records, **an additional consideration of the sum of Twenty Thousand Dollars (\$20,000.00) per net mineral acre** owned by the party entitled to such payment at such time of extension, in the acreage so extended. If this lease is extended as to only a portion of the acreage then covered hereby, Lessee shall designate such portion by a recordable instrument.

**36. Free Will.** Be it known that Lessor has read this lease and the decision made by Lessor in signing this lease is made after fully researching this matter independent of any other information provided by any person or entity. Lessor agrees to sign this agreement of their own free will and Lessor was in no way coerced to sign said Lease by any person or entity. All proceeds from the Lease fully remain the property of the Lessor.

**37. Memorandum of Oil and Gas Lease.** Contemporaneously with the execution of this Lease, Lessor and Lessee have executed a Memorandum of Oil and Gas Lease, and Lessor and Lessee agree that such Memorandum of Oil and Gas Lease, which makes reference to this Lease, will be recorded in the appropriate records of the counties in which said Land is located in lieu of the recording of this Lease in its entirety. The recording of said Memorandum of Oil and Gas Lease shall be binding upon Lessor and Lessee, and their respective heirs, successors, legal representatives and assigns, the same as if this Lease was filed of record in its complete text.

**38. Counterparts.** This Lease may be executed in any number of counterparts of each of the Lessors as identified on Schedule I hereto and each counterpart of a Schedule I hereto so executed shall have the same force and effect as an original instrument and as if all the parties to the aggregate counterparts had signed the same instrument. For recording purposes, the counterpart signature and acknowledgment of the Schedule I of each of the Lessors may be included in one instrument to be filed for record in the records of the County Clerk of Tarrant County, Texas.

**39.** This Lease is binding upon and for the benefit of Lessor, Lessee, and their respective heirs, personal representatives, successors, and assigns

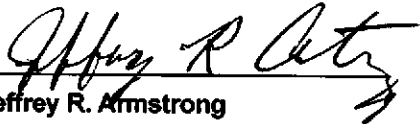
**40. Release and Discharge.** Lessor acknowledges that the terms of the Lease, this addendum, the amount of the royalty and bonus paid hereunder, and all other terms negotiated with Lessee (herein the "Negotiated Terms") with respect to this Lease, were obtained as a result of negotiations between Lessee and the group known as GRNA, which consists of a committee of unpaid volunteers. In consideration of the efforts spent by GRNA, the committee members, other volunteers and attorneys in negotiating and obtaining the Negotiated Terms on behalf of Lessor, Lessor and its respective agents, spouses, co-owners, predecessors, parents, subsidiaries, affiliated corporations, or other affiliated entities, successors, partners, principals, assigns, attorneys, servants, agents, employees, heirs, consultants and other representatives, does hereby release and forever discharge GRNA, the committee members, and any volunteers or attorneys representing GRNA, from any and all claims, demands, obligations, losses, causes of action, costs, expenses, attorney's fees, and liabilities of any nature whatsoever, whether based on contract, tort, statutory or other legal or equitable theory of recovery, whether known or unknown, past, present, or future, which Lessor has, has had, or claims to have against the individual committee members, volunteers, or GRNA which relate to, arise from, or are in any manner connected to (i) the Negotiated Terms, (ii) the negotiation of the Negotiated Terms, (iii), the inclusion and/or omission of any terms within the Negotiated Terms, (iv) any activity, act or omission in any way related to the Negotiated Terms or the negotiation of the Negotiated Terms or (v) any and all representations made prior, during, and subsequent to Lessor's execution of this Lease and Amendment.

**41. Lessor Acknowledgement.** GRNA is an all volunteer group of residents and local property owners in the vicinity of the Land. The group's purpose is to unite in the hopes of negotiating the best terms possible with respect to an oil and gas lease with Lessee. By signing this Lease, Lessor acknowledges and stipulates that Lessor was not obligated to sign this Lease based upon the terms negotiated by GRNA with Lessee and that Lessor had the right to negotiate its own terms and with any company prior to signing this Lease. Additionally, Lessor acknowledges that it is Lessor's obligation to investigate this Lease, all negotiated terms, to take such action as necessary to make an informed decision prior to signing this Lease, and that the decision made by Lessor in signing this Lease is made after fully researching this matter independent of any other information provided by GRNA and/or its committee members, representatives and/or attorneys. Lessor agrees and acknowledges that it is ultimately Lessor's responsibility to (a) determine if Lessor wants to negotiate with Lessee, (b) fully investigate the issues and facts

related to signing an oil and gas lease, and (c) determine what terms are acceptable to Lessor to be included in this Lease.

**SEE EXHIBIT 'A' FOR LEGAL DESCRIPTION**

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

  
Jeffrey R. Armstrong

  
Rachel L. Armstrong

STATE OF TEXAS }

} ss.

(ACKNOWLEDGMENT FOR INDIVIDUAL)

COUNTY OF TARRANT }

This instrument was acknowledged before me on the 1<sup>st</sup> day of October 2008 by

Jeffrey R. Armstrong and Rachel L. Armstrong, husband and wife

Signature

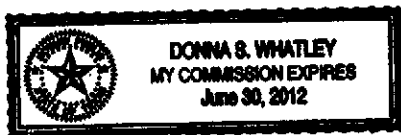


Notary Public

Printed

DONNA S. WHATLEY

Seal



## **EXHIBIT "A"**

**0.347 acres, more or less, being Blk 5 Lot 4, Heatherwood Estates Addition, an Addition to the City of Hurst, Tarrant County, Texas, according to the Map or Plat recorded in Volume 388-197, Page 37, Plat Records, Tarrant County, Texas, and being those same lands more particularly described in Document No. D206295443, Deed Records, Tarrant County, Texas, and amendments thereof, including streets, easements and alleyways adjacent thereto, and any riparian rights.**